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OFFICE OF PETITIONS

In re Application of
Van Bruggen, et al.
Application No. 10/648,816
Filed: August 26, 2003
Attorney Docket No. 11669.113USC1

DECISION GRANTING
PETITION

This is a decision on the petition captioned under 37 CFR 1.153(e) filed December 8, 2003 (certificate of mailing date December 4, 2003) and supplemented on December 18, 2003, to accord the above-identified application a filing date of August 26, 2003. The petition will be treated under 37 CFR 1.182.

The petition under 37 CFR 1.182 is **GRANTED**.

On August 26, 2003, the application was deposited.

On November 20, 2003, the Office of Initial Patent Examination mailed a Notice stating, *inter alia*, that drawings were missing and that a filing date would be accorded upon receipt of the missing items.

In response, the present petition was filed. The continuation application transmittal sheet found in the application file incorporated by reference the entire disclosure of parent application no. 09/218,481. The petition states that the 15 sheets of drawings filed with the instant petition were included in the parent application.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted.

Based on the incorporation by reference, it appears that the drawings were present in the Office on August 26, 2003, albeit in the file of another application, i.e., application No. 09/218,481. Therefore, on petition under 37 CFR 1.182, the application may be accorded the requested filing date of August 26, 2003. MPEP 201.06(c) The petition fee of \$130 is required since the petition

was required to accord the application the requested filing date. Deposit account no. 13-2725 will be charged the petition fee.

In view of the above, the petition is **granted**. The copy of the drawings submitted with the petition will be used for examination purposes.¹

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **August 26, 2003**, using the application papers filed on August 26, 2003 and the drawings filed on December 8, 2003 (certificate of mailing date December 4, 2003).

Telephone inquiries should be directed to the undersigned at (571) 272-3230.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ The Office assumes that the drawings are a true and exact copy of the drawings submitted in the parent application. If this is not the case, then petitioner must notify the Office. Of course, the primary examiner is expected to compare the instant drawings to the disclosure of the parent application in order to verify that the drawings are, in fact, parts of the disclosure of the prior application.